

APPEAL NO. 022513
FILED NOVEMBER 18, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 16, 2002. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the twelfth quarter, from March 20 through June 18, 2002. The claimant appealed on sufficiency of the evidence grounds. The respondent (carrier) appealed, urging affirmance.

DECISION

Affirmed.

Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) set out the statutory and administrative rule requirements for SIBs. At issue in this case is whether the claimant met the good faith job search requirement of Section 408.142(a)(4) by complying with Rules 130.102(d)(4) and 130.102(e).

The claimant based his entitlement to SIBs for the twelfth quarter on an assertion of a total inability to work. Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work. The hearing officer determined that the claimant had an ability to engage in light-duty employment during the qualifying period in dispute; that the functional capacity evaluations of August 13, 2001, and July 31, 2002, are records that show that the claimant had an ability to return to work during the qualifying period in dispute; and that the claimant did not provide a narrative report from a doctor which specifically explains how the compensable injury causes a total inability to work. The claimant testified that he did not seek employment during the qualifying period in dispute. The hearing officer concluded that the claimant did not make a good faith effort to obtain employment commensurate with his ability to work during the qualifying period in dispute, and therefore he was not entitled to SIBs for the twelfth quarter, from March 20 through June 18, 2002. We conclude that the hearing officer's determination is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Veronica Lopez
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge